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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,722	08/03/2000	Gerald Francis McBrearty	AUS000411US1	9218
7590	09/04/2003			
Joseph T Van Leeuwen P O Box 81641 Austin, TX 78708-1641			EXAMINER	
			AVELLINO, JOSEPH E	
		ART UNIT	PAPER NUMBER	
		2143		4
DATE MAILED: 09/04/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Application No.	Applicant(s)
	09/631,722	MCBREARTY ET AL.
	Examiner	Art Unit
	Joseph E. Avellino	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 03 August 2000.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-29 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8-17,19-26,28 and 29 is/are rejected.
- 7) Claim(s) 7, 18, 27 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 August 2000 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. Claims 1-29 are pending in this examination.

***Allowable Subject Matter***

2. Claims 7, 18, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 3, 14, and 23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 3, 14, and 23 recite the limitation "the plurality of servers" in the claim. There is insufficient antecedent basis for this limitation in the claim. For examination purposes this phrase will be understood to refer to the plurality of proxy servers. Correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 9, 12-14, and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Farber et al. (USPN 6,185,598) (hereinafter Farber).

7. Referring to claim 1, Farber discloses a method for selecting a proxy server, said method comprising:

identifying a plurality of proxy servers (repeaters) (the Office takes the term "proxy servers" to be broadly construed to be "intermediate processors used to service client requests which deliver resources to the client on behalf of an origin server" which is seen as the definition of a repeater server in Farber at col. 5, lines 17-25) (e.g. abstract; Figure 1); and

automatically determining at least one of the proxy servers to use when accessing a network (e.g. abstract; Figure 3, reference character B3; Figure 6; col. 11, lines 4-22).

8. Referring to claim 2, Farber further discloses the automatically determining comprises:

testing a speed for each of the plurality of proxy servers (Applicant uses the term "speed" to be equivalent to "throughput" which is understood to be bytes per time interval) (BSPT) (col. 11, line 59 to col. 12, line 23); and  
determining a highest speed (selecting the "best" repeater which has the lowest cost) (col. 13, line 6).

9. Referring to claim 3, Farber further discloses the automatically determining comprises:

setting a minimum speed limit for a selected proxy server (configured capacity) (col. 12, lines 5-11);  
comparing a minimum speed limit for a selected proxy server (col. 11, line 65 to col. 12, line 11); and

testing each of the plurality of servers (proxy servers, see rationale under 112, second paragraph rejection) in response to the speed for the selected proxy server falling below the minimum speed limit (col. 11, line 65 to col. 12, line 11).

10. Referring to claim 9, Farber discloses the identifying further comprises:  
reading a proxy server identifier associated with each of the proxy servers (col. 8, lines 11-14; col. 12, lines 24-29).

11. Claims 12-14, and 21-23 are rejected for similar reasons as stated above.  
Furthermore Farber inherently discloses memory and a nonvolatile storage device

accessible by one or more processors and a network interface connecting the information handling system to a computer network since Farber discloses that a repeater can be considered as a dedicated proxy server that maintains a partial or sparse mirror of the origin server (col. 4, lines 30-33).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farber.

14. Farber discloses a method of selecting a proxy server as stated in the claims above. Farber furthermore states that a table (Load Table) summarizing the overall load for all the proxy servers (repeaters) is contained in the master repeater (col. 12, lines 24-29). Farber does not specifically state that the reflector connects to the reflector and receives the plurality of proxy server identifiers from the master proxy server. However it is well known and expected in the art that directory servers containing complete lists of proxy servers are used and can be downloaded to servers or clients who are allowed to use the system. Therefore it would have been obvious to modify the system of Farber to include downloading the plurality of proxy server identifiers from the second computer system to reduce memory requirements on the reflector and reducing overall processing on behalf of the reflector, thereby increasing efficiency of the system.

Claims 4, 5, 11, 15, 16, 20, 24, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber in view of Logue et al. (USPN 6,330,606) (hereinafter Logue).

15. Referring to claim 4, Farber discloses a method of selecting a proxy server as stated in the claims above. Furthermore Farber discloses receiving a destination address (e.g. abstract). Farber does not disclose comparing the destination address to a plurality of network addresses, each of the network addresses corresponding with a proxy server identifier. In analogous art, Logue discloses another method of selecting a

proxy server where the destination address (i.e. URL) is compared to a plurality of network addresses (a hashing function as taught by Logue transforms each URL into a "key", which is mapped to a specific proxy server, which is then returned to the client), each of the network addresses corresponding with a proxy server identifier (e.g. abstract; Figure 10; col. 10, lines 30-65). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Logue with Farber to efficiently provide mutually exclusive portions of the Internet's contents to particular proxy servers, thereby reducing redundancy of information and reducing overall load on the servers as supported by Logue (e.g. abstract; col. 1, lines 60-67).

16. Referring to claim 5, Farber discloses a method of selecting a proxy server as stated in the claims above. Farber does not specifically disclose returning the proxy server identifier corresponding to the network address that matches the received destination address. Farber discloses returning the proxy server identifier corresponding to the network address that matches the received destination address (e.g. abstract; Figure 10; col. 10, lines 30-65). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Logue with Farber to efficiently provide mutually exclusive portions of the Internet's contents to particular proxy servers, thereby reducing redundancy of information and reducing overall load on the servers as supported by Logue (e.g. abstract; col. 1, lines 60-67).

17. Claims 11, 15, 16, 20, 24, 25, and 29 are rejected for similar reasons as stated above.

Claims 8, 19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber in view of Elledge (USPN 6,044,399).

18. Referring to claim 8, Farber discloses a method of selecting a proxy server as stated in the claims above. Farber does not disclose modifying a proxy configuration setting using the selected proxy server identifier, the proxy configuration setting identifying the proxy server used by a client computer system. In analogous art, Elledge discloses another method of selecting a proxy server which modifies (persistently stores) a proxy configuration setting (identity) using the selected proxy (preferred) server identifier, the proxy configuration setting identifying the proxy server used by a client computer system (col. 4, lines 51-57; Figures 4-5). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Farber with Elledge to ensure obtaining services from the best available server when taking into account geographical location as supported by Elledge (col. 2, lines 30-38).

19. Claims 19 and 28 are rejected for similar reasons as stated above.

Claims 6, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber in view of Logue as applied to claims 4, 15, and 24 above, and further in view of Elledge.

20. Referring to claim 6, Farber in view of Logue disclose a method of selecting a proxy server as stated in the claims above. Farber in view of Logue do not disclose returning a default proxy server identifier in response to the received destination address not matching any of the network addresses. Elledge discloses another method of selecting a proxy server which returns a default proxy (preferred) server identifier in response to the received destination address not matching any of the network addresses (col. 6, lines 59-62). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Elledge with Farber and Logue to ensure obtaining services from the best available server when taking into account geographical location as supported by Elledge (col. 2, lines 30-38).

### ***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
22. Namma et al. (USPN 6,185,616) discloses a proxy server apparatus which stores a server name and corresponding telephone number.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (703) 305-7855. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

JEA  
August 25, 2003



DAVID WILEY  
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